

### ***Remarks***

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 1, 5-7, 9-17, and 21-31 are pending in the application, with 1 and 17 being the independent claims. Claims 2-4 and 18-20 are sought to be cancelled without prejudice to or disclaimer of the subject matter therein. Claims 1 and 17 have been amended. Support for the amendment to claims 1 and 17 can be found in the specification at page 7, lines 23-24. Applicants have placed the application in better condition for Appeal. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

### ***Rejections under 35 U.S.C. § 103***

The Examiner has maintained the rejection of claims 1-7 and 9-31 under 35 U.S.C. 103(a) as being unpatentable over Dumpelmann *et al.* (5,852,211) in view of Bott *et al.* (0 174 624). Applicants respectfully traverse this rejection. However, in the interest of advancing the prosecution of this application, Applicants have amended

independent claims 1 and 17 to exclude the removal of insolubles prior to the drying of the fermentation broth and addition of the dried product to a lower alcohol. Applicants have also canceled claims 2-4 and 18-20 which relate to the removal of insolubles prior to the drying step. Applicants now claim a process where the fermentation broth is dried without prior filtration of the fermentation broth.

Dumpelmann *et al.* teach a process which involves crystallizing the sodium 2-keto-L-gulonate monohydrate from an aqueous fermentation solution, separating the crystals from the aqueous fermentation solution, and suspending the sodium 2-keto-L-gulonate monohydrate in a lower alcohol (col. 4, lines 11-26). Dumpelmann *et al.* does not teach the drying of the fermentation broth without prior removal of insolubles from the fermentation broth.

The deficiency in Dumpelmann *et al.* is not cured by Bott *et al.*, which teach a process involving filtering the fermentation mixture while hot, isolating the calcium lactate as a solid by spray drying, and reacting the calcium lactate with an alcohol in the presence of an acid. Bott *et al.* does not teach the drying of the fermentation broth without prior removal of insolubles from the fermentation broth.

Dumpelmann *et al.* in combination with Bott *et al.* does not teach the drying of the fermentation broth without prior removal of insolubles from the fermentation broth and therefore, does not teach every feature of Applicants' claims 1 and 17. Claims 5-7 and 9-16 depend from claim 1 while claims 21-31 depend from claim 17. Applicants respectfully submit that the rejection of claims 1-7 and 9-31 under 35 U.S.C. 103(a) as being unpatentable over Dumpelmann *et al.* (5,852,211) in view of Bott *et al.* (0 174 624) has been overcome by amendment and should be withdrawn.


***Conclusion***

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Katrina Y. Pei  
Agent for Applicants  
Registration No. 51,063

Date: January 24, 2003

1100 New York Avenue, N.W.  
Suite 600  
Washington, D.C. 20005-3934  
(202) 371-2600



RECEIVED  
JAN 29 2003  
TECH CENTER 160012900

**Version with markings to show changes made**

1. (Thrice amended) A process for the recovery of an organic acid from a fermentation broth comprising the steps of:

(a) drying said organic acid-containing fermentation broth to obtain an organic acid-containing dried product, wherein said drying occurs without prior removal of insolubles from said organic acid-containing fermentation broth:

(b) adding said organic acid-containing dried product of step (a) to a lower alcohol in the presence of an acid, wherein said acid can be any acid which allows for selective recovery of the desired organic acid; and

(c) removing insolubles to obtain an organic acid.

17. (Thrice amended) A process for the recovery of an organic acid from a fermentation broth comprising the steps of:

(a) drying said organic acid-containing fermentation broth to obtain an organic acid-containing dried product, wherein said drying occurs without prior removal of insolubles from said organic acid-containing fermentation broth:

(b) adding said organic acid-containing dried product of step (a) to a lower alcohol to obtain an alcoholic suspension:

(c) adding an acid to said alcoholic suspension of step (b), wherein said acid can be any acid which allows for selective recovery of the desired organic acid; and

(d) removing the insolubles to obtain an organic acid.

Claims 2-4 and 18-20 have been canceled.